



Notes from the Director

No. 58

14 October 1980

STATUS OF LEGISLATION

The Congress is recessed for the upcoming elections. I am pleased to report to all of you that we have had a most successful legislative year for the Agency. We even expect to accomplish more after the Congress returns in November. In brief, we sought five important pieces of legislation this year. We have obtained passage of three and hope to secure passage of a fourth before the Congress concludes. The legislation that has been enacted covers the Hughes-Ryan Amendment, what is known as "graymail," and death gratuities for CIA personnel. The item pending is what is known as identities legislation.

Of great importance to us is the fact that the Congress has completed and sent to the President legislation modifying the Hughes-Ryan Amendment. Henceforth, we will be required to provide information on covert action operations to the two intelligence committees, rather than to eight committees as has been necessary under Hughes-Ryan. This is of great importance to us in helping to assure all those with whom we work overseas that the necessary and proper requirements in our country for congressional participation in the intelligence process are being held to the essential minimum for effective oversight. Under this new arrangement, the number of people who will have to be informed about our covert action programs will be substantially reduced without, in my opinion, hampering the effectiveness of the oversight process.

This same piece of legislation also clarifies the rules for "prior reporting" and the completeness of reporting intelligence activities to the Congress. With respect to prior reporting, it calls for such notification as the norm but also provides for limited prior notice to an eight-person congressional leadership group in extraordinary circumstances and further recognizes the President's right to defer any prior notice in accordance with his constitutional responsibilities. In addition, the bill provides a basis for withholding sensitive operational details from Congress to protect intelligence sources and methods. We believe the process of developing this legislation has led to a good understanding between ourselves and the Congress as to how, when, and how far reporting procedures will go and that both we and the Congress are pleased with the result.

The "graymail" legislation which has been passed is of very great importance to us also. In many instances the government has been confronted with a dilemma with regard to prosecutions in the courts when classified material is involved. Instances like the Boyce-Lee espionage case is an example. With the "graymail" legislation, procedures have now been established which will govern the use of classified informa-

tion in espionage and other criminal cases so as to greatly reduce any risk of disclosures. In particular, this bill makes it much more difficult for a defense attorney to demand the revelation of classified material which is marginal or irrelevant to the case in the hope of inducing the government to withdraw. In short, our ability to see justice carried through in espionage cases is much enhanced.

Thirdly, the Congress has rectified an inequity in the government's provisions for death gratuities, and new authority is now provided for the payment of a death gratuity of one year's salary to the surviving dependents of Agency officers or employees killed overseas as a result of hostile or terrorist activities, or in connection with an intelligence activity having a substantial element of risk. This provision is retroactive to 30 June 1974; it remedies an inequity which has existed between benefits available to foreign service and intelligence officers since that time.

Our fourth item concerns what is known as identities legislation. The Congress will be returning on 12 November, and we hope at that time to proceed with floor consideration of the "Intelligence Identities Protection Act" (H.R. 5615/S. 2216). This legislation to provide criminal penalties for the unauthorized disclosure of information identifying certain individuals engaged or assisting in our country's intelligence activities has been reported by the Intelligence and Judiciary Committees in both Houses of Congress. The section of the bill which would apply to individuals who have not had authorized access to classified information, and which would criminalize their disclosures of identities even if these disclosures cannot be shown to have come from classified sources, faces strong opposition from civil liberties groups and from legal scholars concerned about the first amendment implications of such legislation. Along with the Department of Justice and many members of Congress we have been arguing strenuously that this carefully crafted and narrowly drawn section is both constitutional and vital if the identities bill is to be a meaningful piece of legislation.

I would like you to be aware of the following statement made on the floor of the Senate by Senator John Chafee of Rhode Island, a leader in the fight for identities legislation, on 30 September; it is excerpted from his more extensive remarks:

"I believe that the vast majority of the American people know that an effective intelligence service is essential to national survival in an increasingly unstable world. Passage of the Intelligence Identities Protection Act will be an important protection for our intelligence officers in the field who daily sacrifice the comforts of home to serve their country under difficult and dangerous circumstances, and to those around the world who risk liberty and life itself to cooperate with our country in keeping our leaders, and those of the free world, well informed . . . I urge my colleagues to act on this vital piece of legislation before more names are named, before more lives are threatened, and before more missions are destroyed."

I recently had occasion to speak with Senator Birch Bayh, the Chairman of the Intelligence Committee in the Senate, who assured me that every effort would be made to resolve outstanding differences over the bill and to move it forward when the Congress reconvenes after the November elections.

Additionally, this year we made some progress on another important matter, legislation to provide relief from the Freedom of Information Act. Deputy Director Carlucci testified on the FOIA a number of times this year, and the Department of Justice has endorsed the concept of legislation to change the manner in which requests for intelligence information are handled. We will be pursuing FOIA relief vigorously in the 97th Congress.

Our legislative record this year is one that we can all be very proud of. I want especially to commend our Legislative Counsel Fred Hitz, our General Counsel Dan Silver and their dedicated staffs, particularly [redacted] the Chief of OLC's Legislation Division; [redacted] Assistant Legislative Counsel; and [redacted] Special Assistant to the General Counsel. They and many others have worked with patience and politeness yet tenacity in pursuing these important pieces of legislation; not only have they achieved much but through them we have established an even better foundation for the partnership between the Congress and the Intelligence Community. I am confident that this will serve both institutions well in the future. It is clear to me that we have put behind us a period of suspicion and mistrust. We have been witnessing a renaissance of congressional recognition of the importance of intelligence and a respect and admiration for those such as yourselves who have dedicated their lives to making our country's intelligence apparatus the world's finest.

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A handwritten signature in dark ink, appearing to read "Stansfield Turner", with a stylized, flowing script.

STANSFIELD TURNER
Director